Aviva Flexible Reversionary Trust

A customer guide

What is the Aviva Flexible Reversionary Trust?

This Aviva Flexible Reversionary Trust enables you to make an inheritance tax (IHT) efficient gift by placing an Aviva Onshore Bond into trust. At the same time, it allows you to receive capital payments at future vesting dates. You have the flexibility to select these vesting dates in advance. You can choose the amount and schedule of payments and there is the option for deferral to a future date if a payment is not in fact required. This offers more flexibility than a discounted gift trust (where you receive a fixed income stream), although the trustees do have the ability to override your entitlement if they think fit – this is important for tax purposes. The remainder of the funds, including after your death, are held for the beneficiaries at the discretion of the trustees. You can add people to the class of beneficiaries by completing their details in the trust deed.

Who is it suitable for?

It is suitable for anyone who wants to both reduce their potential IHT bill and retain flexibility to access capital payments at future dates during their lifetime in a way that isn't possible through a discounted gift or loan trust. This is, however, a somewhat more complex structure than a discounted gift or loan trust, and it is important that you seek professional legal and tax advice to ensure that you understand the effect of the trust, how it needs to be operated and the potential risks.

This trust is not suitable for joint settlors – the application must be by one individual or (in the case of an existing Bond) it must be in one person's sole name. This also means that the Bond should not be funded from a joint account, and doing so could have adverse inheritance tax consequences.

Please note:

In this booklet, references to spouse are intended to include civil partner and references to widow or widower to include surviving civil partner.

What products can I use it with?

The Flexible Reversionary Trust can only be established with an Aviva Onshore Bond ('Bond').

The trust can be used with either a new Bond application, or an existing Bond.

Remember that investment bonds such as the Aviva Onshore Bond will involve investment in the stock market, so the value can go down as well as up and may fall below the amount of the original investment. Before taking out an investment, you and the trustees should read the relevant Key Features document carefully. It's important to understand the product fully and make sure it is suitable.

How do I apply?

Firstly, you will need to complete the Flexible Reversionary trust deed.

You will also be required to complete the details of the Bond (if it is an existing Bond), or the date of application for the Bond. If the Bond is being applied for, you will need to complete and submit the relevant application form.

These documents then need to be sent to Aviva. After conducting standard anti-money laundering checks, Aviva will set up your Bond (if it is a new Bond) and request your payment.

The objective – how to leave a gift for your family in a tax-efficient way whilst retaining flexible access to payment

You've worked hard all of your life and built up a reasonable nest egg for your retirement. You've realised that the value of your assets could expose your beneficiaries to inheritance tax, and you could gift some money without affecting your lifestyle.

With the inheritance tax nil rate band frozen at its current level of £325,000 until 5 April 2028 (and expected to remain at this level until April 2030 following changes announced in the Autumn Budget 2024), the impact of this together with high levels of inflation, has meant that more estates are now paying inheritance tax.

You could consider lifetime gifts as a tax efficient option, however, you might not want to make outright gifts and lose control over what happens to the money gifted. You may also want to retain the ability to access part of your gift periodically to cover life events or future requirements, or as a regular top-up to your earnings or pension, but to have some flexibility as to when and how much you take rather than being locked in to a fixed schedule of regular payments.

In addition:

- you may want to retain some control over how the money you want to give away is invested;
- where your gift is intended for children or grandchildren who are still under 18, an outright gift may not be appropriate;
- you may want to ensure that future (unborn) children or grandchildren can benefit from the gift as well;
- you may want your widow or widower to be able to benefit from the gift after your death.

A possible solution – Aviva Flexible Reversionary Trust

The Flexible Reversionary Trust is designed for use with an Aviva Onshore Bond. The benefits of putting the Bond into a trust include the following:

- the trust can create an effective gift (chargeable lifetime transfer) for inheritance tax purposes ('IHT') (see 'UK inheritance tax' below);
- the whole value of the Bond won't be subject to inheritance tax when you die, as long as you live for seven years after putting it into the trust;
- you are entitled to receive payments on specified dates when individual policy segments 'vest'. You can identify the relevant number of policy segments and schedule of the payments, and they can also be deferred by the trustees if you don't require the funds;
- you and/or your trustees can retain control over which of the beneficiaries receive benefits, and when;
- unlike assets in your estate, payments to the trustees on your death will not be delayed by the need to obtain probate (or equivalent), provided there is at least one trustee in place at that time;
- professional investment management (for investment policies) through leading fund managers;
- trust documentation is provided with no additional investment charges over and above those within the investment chosen.

How does the Flexible Reversionary Trust work?

- The Onshore Bond is divided into 1000 individual policies called 'segments'. When completing the trust deed, you can specify that some or all of these segments will be held for your benefit if you are alive on the specified 'vesting date'. You can choose how many segments will 'vest' on which dates, taking into account when you may want access to funds and how much, but typically it would be spread across, say, a 10 year period. Each set of segments vesting on a particular date constitutes a 'sub-trust fund'. We use the term 'segments' throughout this guide for ease.
- When the relevant date arrives, you become entitled to the vesting segments and to receive the surrender proceeds (although note that the segment will not 'mature' and surrender isn't automatic – the trustees would need to contact Aviva to request it).
- Importantly, the trustees have the option, in advance of the relevant vesting date, to defer your entitlement to some future date. In practice, they may do this if you indicate that you don't require the funds, or if it is desirable for tax reasons although it would be their decision. The trustees also have the power to apply some or all of the relevant segments for the beneficiaries, which would reduce the amount to which you become entitled at the point of vesting. There is, therefore, no guarantee that you will receive the specified segments at the vesting date.
- By putting the Bond into the trust you are making a gift for inheritance tax purposes. Because the trustees have the ability to effectively 'override' your entitlement to payments (see above), the intention is that the value of your retained rights will be nominal and that the gift for IHT purposes should be for the full value of the Bond. You should, however, seek your own advice on this point.
- Aside from your entitlement to the specified segments on the vesting dates, the trust fund is held for the beneficiaries – the trustees have a wide discretion to determine who out of that class of beneficiaries benefits, when and in what form. You can choose to add additional beneficiaries if you wish, by completing Schedule C of the trust deed. You are not otherwise able to benefit from the trust: neither you nor your spouse is included in the class of potential beneficiaries (as that would have adverse tax implications and may result in the funds in the trust being included in your estate for inheritance tax). Any direct or indirect benefit to you or your spouse should therefore be avoided. We would recommend you seek your own legal and tax advice if you are intending to include your spouse as a beneficiary of the trust.
- Following your death, any future entitlement to any segments falls away and the whole trust fund (except for any segments that have already vested) will just be held for the beneficiaries and can be applied by the trustees at their discretion.
- It is important for tax purposes (specifically, the rules on reservation of benefit), and to make the trust as robust as possible, that the trustees are able to independently make decisions, particularly with regard to deferral of vesting or applying the specified segments for the beneficiaries instead. To that end, it is strongly advisable for at least some of the trustees to be independent and in particular that there are trustees other than you and your spouse. Keep in mind also that a trustee who is or may be a beneficiary can only exercise powers for his or her benefit if at the time of exercise there is an additional trustee who is not benefiting

UK inheritance tax

The following tax sections describe the position of the trustees of your Flexible Reversionary Trust if invested in an Aviva Onshore Bond.

The Bond must not be written on your life or the life of your spouse: you must choose other lives assured, such as the beneficiaries of the trust. If the Bond were to be written on the life of you and/or your spouse, that might undermine the inheritance tax benefits of the trust.

Lump sum gift into trust

The gift into the Flexible Reversionary Trust will be a chargeable lifetime transfer. The annual exemption, if available, may be used to reduce the chargeable value.

As noted above, the intention is that the value of your entitlement to the specified segments on the vesting dates would be considered to be nominal, which means that the chargeable transfer would be for the full value of the Bond. You should therefore take that into account when considering the availability of your nil rate band.

Your nil rate band is currently £325,000, but this will be reduced by the aggregate value of your chargeable lifetime transfers over a seven-year period. To the extent that this chargeable transfer to the trust exceeds the available nil rate band, inheritance tax is payable on the excess at half the death rate (currently at 20%).

If you die within seven years, a further liability to IHT may then arise; the value of the transfer will become chargeable to inheritance tax at the rate applying on death (currently 40%), subject to any available nil rate band. However, if you die three or more years after the transfer, the inheritance tax rate that applies to the transfer will be reduced by 20% for each complete year after the third year. Any IHT payable on death will be reduced by any IHT that was payable when the trust was created (as per the previous paragraph).

If, however, you survive seven years after the gift, no further IHT will be payable in relation to it.

Periodic charges

The trust fund may also be subject to periodic inheritance tax charges at every 10-year anniversary of its creation. A charge will arise on the relevant value of the trust fund that exceeds the then available nil rate band (your entitlement to the specified segments is unlikely to reduce the value of the trust fund for these purposes). Any chargeable lifetime transfers you made in the seven years up to creating the trust will also be taken into account in the calculation. The charge is half of the current death rate (20%) of 30% of the excess. This equates to a rate of 6%.

Exit charges

Exit charges might apply when capital is distributed to beneficiaries. These will apply where there has been a charge to inheritance tax at the last 10-year anniversary or at the start of the trust if within the first 10 years. Payments to you from the segments that you specify in Schedule B are understood not to give rise to exit charges, on the basis that your interest would be treated as held on bare trust and not be 'relevant property'. HM Revenue & Customs ('HMRC') published views on reversionary interest trusts appears to be consistent with this understanding.

However, once you become entitled to a segment, its value will form part of your estate for IHT purposes.

Reporting

If you make chargeable lifetime transfers in excess of £260,000 (80% of the current nil rate band) in the same tax year and in the seven years before the transfer, you must complete form IHT100a, and send it to HMRC by the end of the sixth month after transfer. The trustees will also have to complete form IHT100c when reporting a proportionate (exit) charge, or form IHT100d when reporting a principle (periodic) charge. Even if no tax return is required, you should still maintain records of gifts into trust for your executors, and to ensure you do not inadvertently breach your available nil rate band.

The inheritance tax treatment of trusts is complex and the above is simply a brief summary. Further information can be found on the HMRC website at **hmrc.gov.uk** or from your professional tax adviser.

Example

Hannah Green has an estate valued at £700,000 including £280,000 in liquid assets available for re-investment. Her will leaves her estate to her children, and Hannah realises that she will have an inheritance tax bill since her spouse's nil rate band was used when they died.

Hannah would like to mitigate the potential inheritance tax bill. However, she may require access to income from some of the £280,000 in order to cover life events in the future. She discusses investment bonds as a possible option with her financial adviser. Hannah understands that the value of an investment bond can fall, but is happy to take this risk. So she decides to invest in an Aviva Onshore Bond and write this under a Flexible Reversionary Trust for the benefit of her children, while retaining the right to receive future payments from certain Bond segments. She opts to create sub-trust funds with segments worth £100,000.

Hannah's annual exemption for this year and the last is available, so this creates a chargeable lifetime transfer of £274,000. As she has made no previous chargeable transfers, there is no inheritance tax to pay. However, she will need to complete form IHT100a. Provided Hannah lives a further seven years, the gift will fall out of charge. There will be therefore be a IHT saving of at least 40% on £180,000 = £72,000 (on current rates), and up to a further £40,000 assuming that her entitlement to the segments are deferred save for monies that she actually needs to spend – plus 40% of any investment growth.

If Hannah dies within 7 years, no IHT will be payable, but the transfer will use up £274,000 of the nil rate band that would otherwise be available for Hannah's estate

UK income tax

You, as the settlor of the trust, will be assessed for income tax on any gain that arises under the Onshore Bond while you are living (or in the tax year of your death) providing you are resident in the UK. (See **'What is a chargeable gain under an insurance policy?'** in the **'Questions & Answers'** section.)

Surrendering a policy is a chargeable event and may trigger a taxable gain. If a gain arises after the tax year of your death or when you are not UK resident, then the trustees (if they are UK resident) are liable to income tax at the rate applicable to trusts (currently 45%) but with a 20% credit for tax suffered within the insurance bond. If the trustees are not UK resident then any beneficiary ordinarily resident in the UK may be liable to income tax at their marginal rate on any money received from the trust, with no credit for corporation tax payable in the UK on policyholder funds.

You should note that a chargeable gain might affect eligibility for income related benefits and allowances such as child benefit.

For UK residents, any gain arising under an Aviva Onshore Bond will not be subject to basic or starting rates of tax. This is because of corporation tax paid by Aviva on its policyholder funds. You will only pay tax on the gain if you already pay income tax at higher (40%) or additional (45%) rates of tax, or if the gain takes you into a higher or additional rate tax band. The tax bands in England and Wales, that apply to chargeable event gains, can be found at **gov.uk/income-tax-rates**. You might be able to claim top slicing relief to reduce the tax payable where appropriate. For more information about chargeable events please see our document 'Making withdrawals less taxing' (IN50031) or for the Onshore Bond please see 'Onshore Bond Making withdrawals less taxing' (IN06079).

We recommend getting professional advice from your accountant or tax adviser if you have a chargeable gain to ensure the chargeable event gain is reported appropriately.

UK capital gains tax

Your Onshore Bond will generally be exempt from capital gains tax in the hands of the trustees.

Questions & Answers

1. Who is the settlor?

The person who sets up the trust and either applies for or assigns the Bond. They should be 18 or over and of full mental capacity. There can only be one settlor.

2. Who can be a trustee?

Any adult who is of sound mind may be appointed as a trustee. Also, a trust company may be appointed. There are a number of things to bear in mind when appointing trustees and you should speak to your own professional advisers about this. As explained above, we strongly recommend you appoint at least two trustees (preferably people who are independent, but in any event if you are one of the trustees, the second trustee should not be your spouse).

3. Who has the power to change the beneficiaries under the trust?

When the trust is set up, the settlor will choose who can benefit from the trust fund. The settlor can change the beneficiaries during their lifetime. After the death of the settlor, the trustees have the power to change the beneficiaries during the remaining term of the trust.

An 'Expression of Wishes' can be used to provide guidance to the trustees on your intentions regarding the beneficiaries of the trust.

If the beneficiaries or trustees of the trust are changed, it is the responsibility of the trustees to update the trust record on HMRC's Trust Registration Service within 90 days.

4. Can spouses each take out their own trust arrangement?

Whilst this can be done, it should not be done without discussion with your professional advisers, as this may counteract any inheritance tax advantage.

5. Can I use the trust with existing policies?

Yes, you can place an existing Onshore Bond into the trust, however the trust isn't suitable for other types of policies.

6. How can I access entitlements under the trust?

When establishing the trust, you as settlor will complete Schedule B stating how many segments of the Bond which they wish to become entitled to and on which specified vesting dates. On the vesting date, you will become absolutely entitled to the vested segments – you cannot access them prior to the vesting date. Note the value you receive will depend on the investment performance of the Bond.

7. Is my entitlement guaranteed?

No. The trustees have the power to apply some or all of the assets in 'your' segments for the benefit of the beneficiaries at any time before the specified vesting date.

8. Can I defer my entitlement to segments?

Yes, your entitlement to segments can be deferred by the trustees (for example, if you do not require the funds or for tax reasons), but only before the vesting date. Segments must vest on the vesting date, or be deferred by the trustees in full.

9. What happens on vesting?

On vesting, the relevant segments are held by the trustees for you.

Vesting does not automatically trigger any changes or a surrender at policy level – the segments will continue to be invested regardless, and the trustees don't have to inform Aviva of whether particular segments have vested or been deferred. It just changes who is entitled to the segments (and any proceeds thereof) under the trust terms. However, the trustees can choose to surrender/encash the relevant segments (this will not happen automatically) and pay the proceeds to you, or they could leave them invested in the Bond and assign the segments to you so that you can encash or otherwise deal with them later.

10. What happens to the rest of the trust fund, and after my death?

Any segments of the Bond which are not specified in Schedule B will be held by the trustees solely for the beneficiaries (excluding the settlor and their spouse) – the trustees have a wide discretion as to who benefits, when and in what way. Following your death, any segments which have not already vested will also be held for the beneficiaries.

11. What is a chargeable event under an investment bond?

When a chargeable event occurs, a calculation is required to decide whether there is a chargeable gain. The following are chargeable events for the investment bond:

a) death of the last or only life insured resulting in a payment under the Bond;

b) fully cashing in the Bond, or a whole individual policy within the Bond;

c) assignment of the Bond for money or some other consideration, not as a gift;

d) partial cashing-in of the Bond in excess of the cumulative yearly 5% tax deferred allowance.

Before making a withdrawal, the trustees should consult their professional adviser regarding the tax consequences, as there are various options that can be considered (see section on income tax).

For more information about chargeable events please see our document 'Making withdrawals less taxing' (IN50031) or for the Onshore Bond please see 'Onshore Bond Making withdrawals less taxing' (IN06079).

12. What is a chargeable gain under an investment bond?

A chargeable gain is triggered by a chargeable event, such as cashing in your Bond. It's the amount by which the value of the policy exceeds the amount paid into it. You will also have a chargeable gain if you withdraw more than the cumulative yearly 5% tax deferred allowance from your Bond. Because your bond is made up of several life policies, there could be a chargeable gain in some circumstances. This could happen if you cash in completely and make a profit or even if you partially cash in. A chargeable gain relating to a life policy may be subject to income tax. Life policies are exempt from capital gains tax unless the policy is sold to someone else.

If your part-surrender exceeds the cumulative yearly 5% tax deferred allowance, it will produce a chargeable gain equal to the amount above 5% - even if the bond is actually showing an investment loss at the time. Any gain you make on your bond is potentially subject to income tax. Because we pay corporation tax on investment income and gains within its funds, you have no liability to basic rate income tax. You'll only pay tax on the gain if you already pay income tax at higher (40%) or additional rates of tax (45%), or if the gain takes you into a higher or additional rate tax band. Details of the England and Wales tax bands which apply to chargeable gains are detailed at the following link: **Income Tax rates and Personal Allowances: Current rates and allowances - GOV.UK**.

You will then pay extra tax, currently at 20% (or 25% if you are an additional rate tax payer), on the gain or on part of the gain. The gain is also treated as income, so it may affect any income-related benefits (such as child benefit) that you may receive.

When a chargeable event gain is triggered, a UK resident settlor has the right to reclaim any tax payable from the trustees. If the settlor does not reclaim the tax, it will mean that the value will remain within the settlor's estate for Inheritance tax.

If the settlor does not reclaim the tax, it could mean that this is a transfer of value for inheritance tax purposes, unless it is covered by an available exemption. Where there is more than one settlor, each settlor will be assessed separately on their share of the gain.

13. How will IHT apply on creation of the trust?

You will make an immediately chargeable transfer for IHT purposes, which we understand should be for the full value of the Bond (without any discount by reference to the segments which you are entitled to receive on the vesting dates, because that can be deferred or 'overridden' by the trustees). Whether an IHT charge arises will depend on the value of the Bond and your available nil rate band – please see the IHT section of the guidance note above.

14. How will periodic and exit charges apply?

Our understanding is that periodic (10-yearly) charges will apply by reference to the full value of the trust fund – again without any discount for your entitlements to segments. Exit charges will apply to payments to the beneficiaries, but should not apply to the segments on vesting – again, see the explanation in the IHT section above.

15. What about the IHT 'gift with reservation' rules?

These rules say (broadly) that you must make a gift 'virtually to your entire exclusion' if you are to avoid the gifted assets remaining part of your estate for IHT purposes. Does the fact that you are able to benefit from the segments fall foul of this?

Whilst the gift with reservation regime can be complex, our understanding is that it should not apply in the context of this type of reversionary interest trust, where your only entitlement as settlor is to the value of the specified segments on vesting at fixed future dates. It is well established that reversionary interests are not subject to the gift with reservation rules where that interest is specified and carved-out from the gifted property at the outset, and HMRC's published guidance suggests they accept that to be the case in a trust of this type – notwithstanding that this entitlement can be deferred or defeated by the trustees. It must, however, be acknowledged that the position is not beyond doubt and you should be aware that HMRC could potentially adopt a different interpretation in the future. The enhanced flexibility of a trust of this nature does, therefore, involve a somewhat higher degree of risk as compared to a discounted gift trust, for example, although we consider the level of risk to still be low. The risk may, however, be higher if it cannot be demonstrated that the trustees are sufficiently independent and have acted accordingly.

16. What about the pre-owned asset tax (POAT) income tax charge?

HMRC also accepts in its published guidance that a POAT charge does not arise in the context of flexible reversionary trusts. We consider there to be good reasons why such a charge would not apply, including that the reversionary interest should be accepted as held on bare trust for the settlor and/or that the effect of the trustees' right to defeat the settlor's interest means that this should be accepted as having a negligible value.

Trust Registration

If your policy is written into a trust, there may be an action to register the trust with HMRC.

The trust register will need to be updated periodically (within 90 days) on the occurrence of certain events, such as a change to the beneficiaries or trustees of the trust.

Registration and ongoing maintenance of the trust record is the trustee's responsibility.

Failure to register to maintain the HMRC trust record on a timely basis (90 days) can lead to penalties of up to £5,000, being issued to the trustees by HMRC. As part of our checks, we may ask to see evidence that this has been done. If you can't show us proof, this may delay your policy being processed. You can find more information about the Trust Registration Service on the Government website. If you're unsure about what you need to do, you should speak to a legal or financial adviser.

Important notes

This booklet is not intended to give advice. Anyone thinking of using a Flexible Reversionary Trust, or doing anything under the provisions of the Trust, must rely on the advice of their own legal and/or financial advisers. We would urge you to seek appropriate professional advice relevant to your own circumstances before proceeding. This is important for a number of reasons.

- Creating a trust has taxation as well as legal consequences.
- Once the trust has been created it cannot be revoked.
- The trustees have a special duty to the beneficiaries and the misuse of a trust power by a trustee can make her/him personally liable for any resulting loss to the beneficiary.

References to tax treatment in this booklet are based on Aviva's understanding of current legislation and HMRC practice. Both of these are likely to change in the future, and this could result in tax being suffered under an existing arrangement. Every care has been taken as to this booklet's accuracy. However, neither Aviva nor its representatives can accept responsibility for loss, however caused, suffered by any person who has acted or refrained from acting as a result of material published in or in conjunction with this booklet.

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